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DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2023-OS-0011]

Privacy Act of 1974; System of Records

AGENCY: Department of Defense (DoD).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is establishing a new Department-wide system of records titled, “Privacy and Civil Liberties Complaints and Correspondence Records,” DoD-0017. This system of records covers DoD’s maintenance of records about privacy or civil liberties-related complaints or correspondence submitted to DoD privacy and civil liberties offices. This system of records includes information provided by the individual authoring the correspondence or complaint. Additionally, DoD is issuing a Direct Final Rule to exempt this system of records from certain provisions of the Privacy Act, elsewhere in today’s issue of the Federal Register.

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

* Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350-1700.

Instructions: All submissions received must include the agency name and docket number for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Rahwa Keleta, Defense Privacy and Civil Liberties Division, Directorate for Privacy, Civil Liberties, and Freedom of Information, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350-1700; OSD.DPCLTD@mail.mil; (703) 571-0070.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is establishing the Privacy and Civil Liberties Complaints and Correspondence Records, DoD-0017, as a DoD-wide Privacy Act system of records. A DoD-wide system of records notice (SORN) supports multiple DoD paper or electronic recordkeeping systems operated by more than one DoD component that maintain the same kind of information about individuals for the same purpose. Establishment of DoD-wide SORNs helps DoD standardize the rules governing the collection, maintenance, use, and sharing of personal information in key areas across the enterprise. DoD-wide SORNs also reduce duplicative and overlapping SORNs published by separate DoD components. The creation of DoD-wide SORNs is expected to make locating relevant SORNs easier for DoD personnel and the public, and create efficiencies in the operation of the DoD privacy program.

This system of records supports the receipt, review, processing, tracking, and response to

correspondence. The term “correspondence” includes records managed by a DoD Privacy and Civil Liberties Office that may include news, information, opinions, questions, concerns, issues, or general complaints, as well as any associated case files. The system consists of both electronic and paper records.

Additionally, DoD is issuing a Direct Final Rule elsewhere in today’s issue of the Federal Register to exempt this system of records from certain provisions of the Privacy Act. DoD SORNs have been published in the Federal Register and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at <https://dpcl.d.defense.gov>.

II. Privacy Act

Under the Privacy Act, a “system of records” is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A-108, DoD has provided a report of this system of records to the OMB and to Congress.

Dated: February 17, 2023.

Aaron T. Siegel,
Alternate OSD Federal Register

Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER: Privacy and Civil Liberties Complaints and

Correspondence Records, DoD-0017.

SECURITY CLASSIFICATION: Unclassified; Classified.

SYSTEM LOCATION: Department of Defense (Department or DoD), located at 1000 Defense Pentagon, Washington, DC 20301-1000, and other Department installations, offices, or mission locations. Information may also be stored within a government-certified cloud, implemented and overseen by the Department's Chief Information Officer (CIO), 6000 Defense Pentagon, Washington, DC 20301-6000.

SYSTEM MANAGER(S):

A. Chief, Defense Privacy, Civil Liberties, and Transparency Division, Office of the Secretary of Defense, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350-1700; OSD.DPCLTD@mail.mil; phone (703) 571-0070.

B. At DoD components, the system manager is the component privacy and civil liberties officer(s). The contact information for DoD component privacy and civil liberties offices is found at this website: <https://dpcl.d.defense.gov/Privacy/Privacy-Contacts/>.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 10 U.S.C. 113, Secretary of Defense; 42 U.S.C 2000ee-1, Privacy and Civil Liberties Officers; 32 CFR part 310, DoD Privacy Program; DoD Instruction 5400.11, DoD Privacy and Civil Liberties Programs; and Executive Order 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

A. To manage general correspondence and privacy and civil liberties complaints received by or referred to DoD privacy and civil liberties offices, including those within DoD and Office of the Secretary of Defense (OSD) components.

B. To track and report data, conduct research and statistical analysis, and evaluate program effectiveness.

C. To maintain records for oversight and auditing purposes and to ensure appropriate handling

and management as required by law or policy.

Note 1: Complaints received through the process for which established formal procedural avenues exist, such as those resulting in non-judicial punishments, military courts-martial, administrative separations, and Equal Employment Opportunity actions, are outside the scope of this SORN.

Note 2: Civil Liberties complaints may be referred to the DoD Office of Inspector General (DoDIG) for handling under the Inspector General Act of 1978, as amended. The OIG decides whether it will pursue the case, or decline to investigate it and refer it back to the component privacy and civil liberties office, for appropriate action. Any resulting DoDIG records are excluded from this system of records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: Individuals who submit correspondence or complaints to DoD privacy and civil liberties offices, either directly or by authorized representatives, or whose correspondence or complaints are referred to such offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Correspondence, to include records managed by a privacy and civil liberties office that may include news, information, opinions, questions, concerns, issues, or complaints, as well as any associated records received from individuals, either directly or through authorized representatives. These records may include data such as the individual's name, unique identifying numbers (such as the individual's DoD ID Number or Social Security Number), contact information (address, phone, email), other identifying information, detailed description of the issue or concern and how it pertains to DoD, dates, component, command and/or office, supporting materials, and any case or complaint number assigned by DoD. The records may also include information concerning those who are alleged to have violated an individual's privacy or civil liberties.

B. Records created or compiled in response to the correspondence, such as internal memorandums or email, internal records pertinent to the matter, witness statements,

consultations with or referrals to other agencies within or external to DoD, and responses sent to the individual. The specific types of data in these records may vary widely depending on the nature of the individual's correspondence or complaint.

RECORD SOURCE CATEGORIES: Records and information maintained in this system of records are obtained from the individuals or their authorized representatives, DoD privacy and civil liberties personnel, DoD investigators, any DoD personnel or recordkeeping system that may have information on the subject of the correspondence or complaint, and other government sources.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a Routine Use pursuant to 5 U.S.C. 552a(b)(3) as follows:

- A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal government when necessary to accomplish an agency function related to this system of records.
- B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.
- C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.
- D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an

administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

I. To another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or other review as authorized by the Inspector General Act of 1978, as amended.

J. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

K. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Records may be stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records may be stored locally on digital media; in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the Federal Risk and Authorization Management Program (FedRAMP).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Records may be retrieved by name and case number, or combination of both.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS: Privacy complaint records are retained for three years after resolution or referral in accordance with National Archives and Records Administration General Records Schedule 4.2. The retention period for other records in this system may be obtained by contacting the system manager for the DoD component.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS: DoD safeguards records in this system of records according to applicable rules, policies, and procedures, including all applicable DoD automated systems security and access policies. DoD policies require the use of controls to minimize the risk of compromise of personally identifiable information (PII) in paper and electronic form and to enforce access by those with a need to know and with appropriate clearances. Additionally, DoD has established security audit and accountability policies and procedures which support the safeguarding of PII and detection of potential PII incidents. DoD routinely employs safeguards such as the following to information systems and paper recordkeeping systems: Multifactor log-in authentication including Common Access Card (CAC) authentication and password; physical token as required; physical and technological access controls governing access to data; network encryption to protect data transmitted over the

network; disk encryption securing disks storing data; key management services to safeguard encryption keys; masking of sensitive data as practicable; mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII; physical access safeguards including multifactor identification physical access controls, detection and electronic alert systems for access to servers and other network infrastructure; and electronic intrusion detection systems in DoD facilities.

RECORD ACCESS PROCEDURES: Individuals seeking access to their records should follow the procedures in 32 CFR part 310. Individuals should address written inquiries to the DoD component with oversight of the records, as the component has Privacy Act responsibilities concerning access, amendment, and disclosure of the records within this system of records. The public may identify the contact information for the appropriate DoD office through the following website: www.FOIA.gov. Signed written requests should contain the name and number of this system of records notice along with the full name, current address, and email address of the individual. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: “I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).”

If executed within the United States, its territories, possessions, or commonwealths: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).”

CONTESTING RECORD PROCEDURES: Individuals seeking to amend or correct the content of records about them should follow the procedures in 32 CFR part 310.

NOTIFICATION PROCEDURES: Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Records Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: The DoD has exempted records maintained in this system from 5 U.S.C. 552a(c)(3); (d)(1), (2), (3), and (4); (e)(1); (e)(4)(G), (H), and (I); and (f) pursuant to 5 U.S.C. 552a(k)(1). In addition, when exempt records received from other systems of records become part of this system, the DoD also claims the same exemptions for those records that are claimed for the original primary system(s) of records of which they were a part, and claims any additional exemptions set forth here. An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and published in 32 CFR part 310.

HISTORY: None.

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